

IN THE CLAIMS:

Please cancel, Claim 5.

REMARKS

Claim 5 has been finally rejected under 35 U.S.C. §102(b) as being anticipated by JP 8-203537 (Uchida et al.). Claims 1-5 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Uchida et al. in view of Junji et al. (JP 8-188783).

The Examiner has now rejected Claims 1-5 as being unpatentable over Uchida et al. in view of Junji et al. The Examiner comments that "Uchida et al. do not expressly teach that the CO oxidation catalyst consists essentially of a non precious metal", but that Junji et al. teach a CO oxidation catalyst formed from copper oxide and manganese oxide, such that it would have been obvious to one of ordinary skill "to use a catalyst consisting of copper and manganese oxides in the CO oxidation layer of Uchida et al."

Please cancel Claim 5 without prejudice to applicants.

Applicants respectfully traverse the rejection of Claims 1-4 as unpatentable over Uchida et al. in view of Junji et al. Junji et al. teach only a CO-selective oxidation catalyst of copper oxide and manganese oxide. See, for example, the following statements in the translation furnished by the Patent Office:

Abstract: "a layer of CO-selective oxidation catalyst consisting of copper oxide and manganese oxide";

Paragraph [0011]: "CO selective oxidation catalyst bed which consists . . . of a copper oxide and manganese oxide";

Paragraph [0013]: "When a copper oxide/manganese oxide system catalyst is used as a CO selective oxidation catalyst, this catalyst is excellent in the capacity for a catalyst independent to oxidize CO alternatively . . . .";

Paragraph [0015]: "In this example, a mixture of 25% of the weight of CuO and 75% of the weight of MnO<sub>2</sub> is used for CO selective oxidation catalyst as a copper oxide/a manganese oxide system catalyst."

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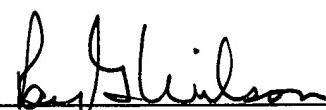
Applicants' independent Claim 1 recites that "the layer of oxidation catalyst consists essentially of a non-precious metal oxidation catalyst selected from the group consisting of Cu, Fe, Co, Tb, W, Mo, Sn, and oxides thereof." Applicant's claimed invention excludes MnO<sub>2</sub> from the oxidation catalyst layer. There is no showing or suggestion in Jujuni et al. that CuO *per se*, as one of the non-precious metals claimed by applicant, will be effective to oxidize CO in fuel cell operations. Claims 1-4 are limited to the listed non-precious metal materials, which do not include the MnO<sub>2</sub> taught by Junji et al. as a catalyst system with CuO, and are allowable over Uchida et al. taken with Junji et al.

Applicants respectfully request that the Examiner allow Claims 1-4 and to pass this case to issue.

Applicants' attorney would be pleased to discuss any of the issues in this case if the Examiner concludes such a discussion would assist in moving the case to allowance.

Respectfully submitted,

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